

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  WINSTAR COMMUNICATIONS, LLC	DOCKET NO. WRU-04-19-3060
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**ORDER GRANTING WAIVER**

(Issued June 10, 2004)

On April 26, 2004, Winstar Communications, LLC (Winstar), filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.16 regarding the discontinuation of service to customers in certain Iowa locations. After several discussions with Board staff, Winstar filed an amended request on May 25, 2004, seeking a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. The waiver request and its subsequent amendment have been identified as Docket No. WRU-04-19-3060. No objection to the request has been filed.

In support of its request, Winstar states that it is refocusing its business plan and has determined to discontinue its resale services, including interstate and international long distance and toll free and Internet services to its commercial customers in Iowa. Winstar also states that it provided notice of the discontinuance to all of its affected customers. Winstar states that it advised its affected customers that Z-Tel Communications, Inc. (Z-Tel), will work with affected customers to convert

their Winstar service to a comparable Z-Tel service and provided affected customers with Z-Tel's contact information. Finally, Winstar states that the anticipated date for the discontinuance of service is June 15, 2004.

Winstar requests a waiver of 199 IAC 22.16, which would require that discontinuance of service could take place 90 days following the filing of a notice of intent to discontinue. Winstar plans to discontinue affected customers within 90 days of the date Winstar filed a notice of intent to discontinue with the Board. To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.16 should be granted based on the Board's review of the information provided by Winstar. The Board finds that granting the waiver request would not pose an undue hardship on Winstar's affected customers as those customers have received sufficient notice and opportunity to select an alternative service provider. In addition, Winstar has demonstrated willingness to effectuate the seamless transition of its affected customers to other carriers. The Board also finds that the waiver will not affect the substantial legal

rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Winstar's affected customers have received notice of the discontinuance of service and have been afforded an opportunity to change providers.

In its amended request for waiver, Winstar also seeks a waiver of subrule 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. It is unclear from the filings whether a waiver of subrule 22.23(2) is necessary in this instance. Therefore, the Board finds that to the extent individual customer verification is required to effectively change an affected customer's service provider, the waiver of 199 IAC 22.23(2) is granted.

**IT IS THEREFORE ORDERED:**

The waiver request filed by Winstar Communications, LLC, on April 26, 2004, as amended on May 25, 2004, is granted as described in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of June, 2004.